

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

VICTORIA MARION,

Plaintiff,

v.

Case No: 6:19-cv-176-Orl-18GJK

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**REPORT AND RECOMMENDATION<sup>1</sup>**

Pending before the Court is Plaintiff's Unopposed Motion for Fees Pursuant to the Equal Access to Justice Act ("EAJA") (Doc. 26). Plaintiff requests an award of fees in the amount of \$6,4760.40 calculated at the rate of \$205.60 per hour for work performed in 2019 and 2020 (Id., at 1, 6, 12). The motion includes an EAJA Limited Power of Attorney and Fee Agreement - Federal Court, both signed by Plaintiff, and a detailed timesheet of Plaintiff's counsel's time spent on this matter (Doc. 26, at 10-12). Defendant has no objection to the requested relief (Doc. 26 at 7).

On January 10, 2020, the Court entered its Opinion and Order reversing the Commissioner's decision and remanding this case for further proceedings pursuant to 42 U.S.C. § 405(g) (Doc. 24). The Clerk of Court entered judgment for Plaintiff on the same day (Doc. 25). Plaintiff timely filed her application for attorney's fees on March 27, 2020 (Doc. 26).

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<sup>1</sup> Judge Smith is temporarily handling this case for Judge Kelly.

Under the EAJA, a claimant is eligible for an attorney fee award where: (1) she is the prevailing party in a non-tort suit involving the United States; (2) the Government's position was not substantially justified; (3) the claimant filed a timely application for attorney's fees; (4) the claimant had a net worth of less than \$2 million at the time the complaint was filed; and (5) there are no special circumstances which would make the award of fees unjust. 28 U.S.C. § 2412(d).

Plaintiff alleges that she is the prevailing party, that the Commissioner's position in the underlying action was not substantially justified, and that her net worth at the time this case was filed was less than two million dollars (Doc. 26 at 1-2). The Commissioner does not dispute these claims. Accordingly, I respectfully recommend that the district judge **GRANT** Plaintiff's unopposed motion for attorney's fees (Doc. 26) and award Plaintiff EAJA fees in the amount of **\$6,476.40**.

**Notice to Parties**

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. See 11th Cir. R. 3-1.

**RECOMMENDED** in Orlando, Florida on April 6, 2020.

  
THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to:

Presiding United States District Judge  
Counsel of Record